

June 28, 2005

**HAND DELIVERED**

Mr. Charles Terreni  
Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Synergy Business Park, Saluda Building  
101 Executive Center Drive  
Columbia, SC 29210

**Re: MCI Arbitration with Horry Telephone Cooperative**  
Docket No. 2005-188-C


Dear Mr. Terreni:

Enclosed for filing please find the Petition to Intervene of Time Warner Cable Information Services (SC), LLC in the MCImetro Access Transmission Services Arbitration for Interconnection with Horry Telephone Cooperative. By copy of this letter we are serving the same on counsel for the parties. Please date-stamp the extra copies of the Petition as proof of filing and return them with our courier.

If you have any questions, please have someone on your staff contact me.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

  
Frank R. Ellerbe, III

FRE/bds  
Enclosure

cc/enc: Julie Y. Patterson, Esquire (via email)  
Darra W. Cothran, Esquire  
John M. Bowen, Jr. Esquire  
Margaret M. Fox, Esquire  
Curley P. Huggins, Horry Telephone Cooperative  
Dan F. Arnett, Chief of Staff of ORS  
Florence Belser, General Counsel, ORS  
Ms. Charlene Keys (via email)

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**Docket No. 2005-188-C**

**In re:**

**Petition of MCImetro Access Transmission  
Services, LLC for Arbitration of Certain  
Terms and Conditions of Proposed  
Agreement with Horry Telephone  
Company concerning Interconnection  
and Resale under the  
Telecommunications Act of 1996**

**PETITION TO INTERVENE  
OF TIME WARNER CABLE  
INFORMATION SERVICES,  
(SOUTH CAROLINA), LLC**

Time Warner Cable Information Services (South Carolina), LLC, doing business as Time Warner Cable ("TWCIS"), hereby petitions the Public Service Commission of South Carolina ("Commission") pursuant to S.C. Regs. 103-836 and other applicable rules and regulations of the Commission for permission to intervene in the above-captioned proceeding. In support of this petition, TWCIS would show the following:

1. TWCIS is a limited liability company organized under the laws of the State of Delaware. TWCIS was granted a certificate of public convenience and necessity to provide interexchange and local voice services in the service area of Horry Telephone Company in Docket No. 2003-362-C, Order No. 2004-213, on May 24, 2004. Order No. 2003-213 is attached as Exhibit 1.
2. TWCIS' authorized representatives in this proceeding are as follows:

## TWCIS OFFICIAL

Julie Y. Patterson  
Vice President & Chief Counsel, Telephony  
Time Warner Cable  
290 Harbor Drive  
Stamford, Connecticut 06902  
Telephone: (203) 328-0671  
[Julie.Patterson@twcable.com](mailto:Julie.Patterson@twcable.com)

## LEGAL REPRESENTATIVES

Frank R. Ellerbe, III, Esquire  
Bonnie D. Shealy, Esquire  
Robinson McFadden & Moore, P.C.  
1901 Main Street, Suite 1200  
Post Office Box 944  
Columbia, South Carolina 29202  
Telephone: (803) 779-8900  
[FEllerbe@robinsonlaw.com](mailto:FEllerbe@robinsonlaw.com)  
[BShealy@robinsonlaw.com](mailto:BShealy@robinsonlaw.com)

3. MCI metro Access Transmission Services, LLC ("MCI") filed a petition to arbitrate pursuant to Section 252(b) of the Telecommunications Act of 1996 ("Act") certain terms and conditions of proposed agreements between MCI and Horry Telephone Cooperative, Inc. ("HTC").

4. HTC participated in TWCIS' initial certification docket as a member of the South Carolina Telephone Coalition ("SCTC"). As indicated in Order No. 2004-213, TWCIS provides facilities-based Internet Protocol voice services targeted to the residential market. Exhibit 1, p. 4. When TWCIS applied for this initial authority, it informed the Commission and HTC that in order to offer services it had to establish a connection to the public switched telephone network ("PSTN"). TWCIS terminates telephone calls destined for customers not served by TWCIS' network through relationships with competitive local exchange carriers like MCI. As a member of SCTC,

HTC participated in the initial certification docket and in the subsequent docket established to expand TWCIS' service area. Neither HTC nor the Commission objected to MCI's relationship with TWCIS.

5. TWCIS has an interest in this arbitration proceeding as a result of its agreement with MCI to carry TWCIS' traffic over the PSTN. TWCIS is currently authorized to provide services in HTC's service territory under Order No. 2004-213. HTC is aware of the relationship between MCI and TWCIS as a result of its participation in both TWCIS certification dockets. TWCIS will be directly affected by the arbitration and, therefore has a substantial and unique interest in this docket.

6. The Commission recently refused to allow TWCIS to participate in an arbitration between MCI and Farmers Telephone Cooperative, Inc.; Home Telephone Co., Inc.; PBT Telecom, Inc.; and Hargray Telephone Co. (collectively the "rural ILECs") in which similar issues affecting TWCIS are being addressed. During the MCI – rural ILEC arbitration hearing, MCI and the rural ILECs were given the opportunity to discuss the ability of MCI to provide service to TWCIS; the relationship between TWCIS and MCI; whether TWCIS' relationship introduces ambiguity into the interconnection agreement; and whether TWCIS' provides telecommunications services that may or may not trigger interconnection obligations. The resolution of these issues will have a direct and critical impact upon TWCIS and its ability to provide competitive voice services to its customers in South Carolina. Similar issues that would directly and critically impact TWCIS' ability to provide service to customers in HTC's service areas are raised in the MCI-HTC arbitration. The S.C. Administrative Procedures Act, as well as fundamental principles of due process, require that TWCIS be permitted to participate when issues are being decided that impact it so directly.

7. The arbitration petition lists several unresolved issues that directly impact TWCIS as a result of its agreement with MCI. TWCIS's intervention is necessary to protect its interests in this matter. TWCIS hereby requests permission to intervene in the proceeding as a formal party of record.

8. TWCIS' position in the proceeding in regard to the unresolved issues which directly impact TWCIS are as follows:

#### **ISSUE #1**

**Issue:** Should the companies be required to provide JIP information? (GTC § 9.5)

**TWCIS position:** TWCIS agrees with MCI's position that JIP information should not be required. Calling Party Number ("CPN"), not JIP, is the industry standard for transmitting the jurisdictional origin of calls. As MCI indicates, CLECs use local switches much differently than ILECs. CLEC switches cover multiple serving areas that may cross state lines and LATA boundaries. The ILECs' proposal would unfairly impose access charges upon MCI and, indirectly, TWCIS, for a local call if the JIP is in another state or LATA. As is the industry standard and as required by FCC rules, CPN should be transmitted in connection with determining the jurisdictional origin of calls.

#### **ISSUE #2**

**Issue:** Should End User Customer be defined as only customers directly served by the Parties to the contract? (GTC-Glossary § 2.17)

**TWCIS position:** TWCIS agrees with MCI's position that End User Customers may be directly or indirectly served because the Act expressly requires each telecommunications carrier to connect directly or *indirectly* with the facilities of other carriers. 47 U.S.C.A. § 251(a)(1). In addition, the Act permits interconnection for CLECs such as MCI for the purposes of offering local exchange and/or exchange access services, and it is undisputed that MCI offering such services to the public. The Act also provides that each local exchange carrier has the duty not to prohibit or limit the resale of its telecommunications services. 47 U.S.C.A. § 251(b)(1). A resolution of this issue directly impacts TWCIS.

### **ISSUE #3**

**Issue:** Is ISP traffic in the Commission's or FCC's jurisdiction in terms of determining compensation when FX or virtual NXX service is subscribed to by the ISP? (GTC-Glossary § 2.25, 2.28 & 2.34)

**TWCIS position:** TWCIS agrees with MCI that ISP traffic is in the FCC's jurisdiction. ISP-bound traffic is both interstate and exempt from access charges. It is subject to reciprocal compensation treatment pursuant to the FCC's Remand Order, 16 FCC Rcd. 9151 (2001), as amended by the CoreCom decision, WC Docket No. 03-171 (released Oct. 18, 2004).

### **ISSUE #4**

**Issue:** Should MCI have to provide service (a) only directly to end users and (b) only to End Users physically located in the same LATA to be covered by this agreement? (Interconnection § 1.1)

**TWCIS position:**

(a) TWCIS agrees with MCI that End User Customers may be indirectly served through resale arrangements. The Act expressly requires each telecommunications carrier to connect directly or *indirectly* with the facilities of other carriers. 47 U.S.C.A. § 251(a)(1). The Act also provides that each local exchange carrier has the duty not to prohibit or limit the resale of its telecommunications services. 47 U.S.C.A. § 251(b)(1). In addition, nothing in the Act requires that a requesting carrier provide service to end user customers; rather, requesting carriers must be telecommunications carriers requesting interconnection for the purpose of offering local exchange and/or exchange access services, which criteria MCI satisfies. A resolution of this issue directly impacts TWCIS as a result of its current arrangement with MCI.

(b) TWCIS agrees with MCI that MCI should not be limited to providing services directly to end users physically located in the same LATA.

### **ISSUE #6**

**Issue:** Should Parties be required to provide (a) CPN and JIP; and (b) pay access charges on all unidentified traffic? (IP § 2.7.7)

**TWCIS position:** TWCIS believes it is reasonable to require CPN or JIP, but not both and that all unidentified traffic should be priced at the same ratio as identified traffic.

## **ISSUE #7**

**Issue:** Does the contract need the limit of “directly provided” when other provisions discuss transit traffic, and the issue of providing service directly to end users also is debated elsewhere? (Interconnection § 3.1)

**TWCIS position:** The proposed language is unnecessary. TWCIS’ position is that End User Customers may be directly or indirectly served since the Act expressly requires each telecommunications carrier to connect directly or *indirectly* with the facilities of other carriers. 47 U.S.C.A. § 251(a)(1). The Act also provides that each local exchange carrier has the duty not to prohibit or limit the resale of its telecommunications services. 47 U.S.C.A. § 251(b)(1). Nothing in the Act requires that a requesting carrier provide services directly to end user retail customers. A resolution of this issue directly impacts TWCIS.

## **ISSUE #8**

**Issue:** Should Parties have to provide the specified signaling parameters on all calls? (Interconnection § 3.6)

**TWCIS position:** TWCIS agrees with MCI that JIP information should not be required because the industry standard is for Calling Party Information (“CPN”) to be passed between carriers.

## **ISSUE #9**

**Issue:** Should the Parties be providing service directly to End Users to port numbers? (Number Portability, § 1.1)

**TWCIS position:** The parties may indirectly provide service to End Users to port numbers. The Act expressly provides for *indirect connection* with the facilities of other carriers. 47 U.S.C.A. § 251(a)(1). In addition, nothing in the Act requires that MCI, as a requesting carrier, provide service to end user retail customers. Rather, requesting carrier must be telecommunications carriers requesting interconnection for the purpose of offering local exchange and/or exchange access services, which MCI indisputably satisfies. A resolution of this issue directly impacts TWCIS.

9. TWCIS has a special interest in this proceeding as the result of its provision of VoIP-based services within South Carolina and as a result of its agreement with MCI pursuant to which MCI terminates TWCIS traffic to the PSTN and administers the intercarrier compensation due on calls originating from and terminating to TWCIS.

TWCIS' legal rights will be directly affected by the decisions made during this proceeding. The decisions will directly impact TWCIS' ability to provide service to customers in HTC's service area.

10. TWCIS is informed and believes that granting its request to be a party of record in this arbitration is in the public interest; is consistent with the policies of the Commission in encouraging maximum public participation in the issues before it; and should be permitted so that a full and complete record addressing the concerns of all of the parties can be developed.

WHEREFORE, TWCIS prays for the following relief:

- A. That this petition to intervene be granted by the Commission and that TWCIS be made a formal party of record to the proceeding;
- B. That TWCIS be allowed to participate fully in this arbitration; and
- C. That the Commission grant such other and further relief as is just and proper.

Dated this 28<sup>th</sup> day of June, 2005.

ROBINSON, MCFADDEN & MOORE, P.C.



---

Frank R. Ellerbe, III, Esquire  
Bonnie D. Shealy, Esquire  
Robinson, McFadden & Moore, P.C.  
1901 Main Street, Suite 1200  
Post Office Box 944  
Columbia, South Carolina 29202  
[fellerbe@robinsonlaw.com](mailto:fellerbe@robinsonlaw.com)  
[bshealy@robinsonlaw.com](mailto:bshealy@robinsonlaw.com)

Telephone: 803-779-8900  
Facsimile: 803-252-0724



**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2005-188-C**

In Re:

Petition of MCI Metro Access Transmission  
Services, LLC for Arbitration of Certain  
Terms and Conditions of Proposed  
Agreement with Horry Telephone  
Company concerning Interconnection  
and Resale under the Telecommunications  
Act of 1996

**CERTIFICATE OF SERVICE**

This is to certify that I, Mary F. Cutler, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the persons named below the **Petition to Intervene** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

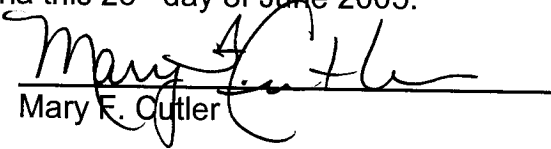
Darra W. Cothran, Esquire  
Woodward, Cothran & Herndon  
P.O. Box 12399  
Columbia, SC 29211

Curley P. Huggins, Chief Executive Officer  
Horry Telephone Company  
Post Office Box 1820  
Conway, SC 29528

M. John Bowen, Jr., Esquire  
Margaret M. Fox, Esquire  
McNair Law Firm, P.A.  
P.O. Box 11390  
Columbia, SC 29211

Dan F. Arnett, Chief of Staff  
Florence P. Belser, General Counsel  
Office of Regulatory Staff  
1441 Main Street, 3rd Floor  
Columbia, SC 29201

Dated at Columbia, South Carolina this 28<sup>th</sup> day of June 2005.

  
Mary F. Cutler